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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

In re KAITLIN K., a Person Coming Under  
the Juvenile Court Law.

B161334  
(Los Angeles County Super. Ct.  
No. CK43200)

LOS ANGELES COUNTY  
DEPARTMENT OF CHILDREN AND  
FAMILY SERVICES,

Plaintiff and Respondent,

v.

MICHELLE K.,

Defendant and Appellant.

APPEAL from the orders of the Superior Court of Los Angeles County.

Emily A. Stevens, Judge. Affirmed.

Mary Elizabeth Handy, under appointment by the Court of Appeal, for Defendant and Appellant.

Lloyd W. Pellman, County Counsel, and Jacklyn K. Louie, Deputy County Counsel, for Plaintiff and Respondent.

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Michelle K. (mother) appeals from an order, pursuant to Welfare and Institutions Code section 366.26,<sup>1</sup> terminating parental rights to Kaitlin K.<sup>2</sup> Mother had a history of mental illness, substance abuse, physical violence, and domestic violence.<sup>3</sup> Kaitlin was born in March 2001. Mother had abused drugs during the pregnancy. Kaitlin was detained from mother in May 2001 and placed in a foster home. Kaitlin was declared a dependent of the court on July 18, 2001. The Department of Children and Family Services was ordered to provide reunification services, and mother was ordered to visit and complete a case plan. Mother failed to reunify with Kaitlin. She continued using drugs until August 2002. She visited twice per month from June through December 2001. She visited only once between January 2002 and September 2002. The foster parents wanted to adopt Kaitlin and were committed to maintaining sibling visits. Kaitlin considered the foster parents her parents. On September 9, 2002, parental rights were terminated.

On appeal, mother contends there is no substantial evidence the exception pursuant to section 366.26, subdivision (c)(1)(A) does not apply. We disagree. Under that subdivision, if a child is adoptable, the dependency court must terminate parental rights unless it “finds a compelling reason for determining that termination would be detrimental to the child due to [the circumstance that the parent has] maintained regular visitation and contact with the child and the child would benefit from continuing the relationship.” (§ 366.26, subd. (c)(1)(A).) The burden is on the parent to prove the

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<sup>1</sup> Hereinafter, all statutory references will be to the Welfare and Institutions Code.

<sup>2</sup> Father, Dana K., did not appeal.

<sup>3</sup> Mother had three other children: Daniel, born in 1994, Michael, born in 1998, and Christopher, born in 1999. Daniel and Michael were dependents of the court. They were freed for adoption on January 22, 2002. We affirmed the order on July 16, 2002. (*In re Daniel K. et al.*, B156131.) Mother abused drugs during the first seven months of the pregnancy with Christopher. He died of congenital heart failure when he was 51 days old.

exception. (*In re Cristella C.* (1992) 6 Cal.App.4th 1363, 1373.) ““The exception applies only where the [dependency] court finds regular visits and contact have continued or developed a significant, positive, emotional attachment from child to parent.’ [Citation.]” (*In re Beatrice M.* (1994) 29 Cal.App.4th 1411, 1419.) Here, mother’s irregular, infrequent visits and continued drug use, and Kaitlin’s attachment to the foster parents as her parents, constitutes substantial evidence supporting the finding the exception does not apply.

### **DISPOSITION**

The orders are affirmed.

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GRIGNON, J.

We concur:

TURNER, P. J.

ARMSTRONG, J.